

UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin

MARY HALEY, ET AL.

v.
KOLBE & KOLBE MILLWORK CO., INC.

Case No.: 14-cv-99-bbc

BILL OF COSTS

Judgment having been entered in the above entitled action on 07/19/2016 against Plaintiffs,
Date
 the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$	0.00	
Fees for service of summons and subpoena		0.00	
Fees for printed or electronically recorded transcripts necessarily obtained for use in the case		40,543.05	1
Fees and disbursements for printing		0.00	
Fees for witnesses (<i>itemize on page two</i>)		839.52	
Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case.		65,044.42	2
		102,006.50	
Docket fees under 28 U.S.C. 1923		0.00	
Costs as shown on Mandate of Court of Appeals		0.00	
Compensation of court-appointed experts		0.00	
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828		0.00	
Other costs (<i>please itemize</i>)			
	TOTAL	\$	143,389.07
			\$106,426.99

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

Declaration

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:



Electronic service



First class mail, postage prepaid



Other: _____

s/ Attorney: /s/Matthew D. LeeName of Attorney: Matthew D. Lee, Foley & Lardner LLPFor: Defendant Kolbe & Kolbe Millwork Co., Inc.*Name of Claiming Party*Date: 07/20/2016

Taxation of Costs

Costs are taxed in the amount of \$106,426.99 and included in the judgment.

s/ Peter Oppeneer*Clerk of Court*

By: _____

*Deputy Clerk*8/31/2016*Date*

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Witness Fees (computation, cf. 28 U.S.C. 1821 for statutory fees)

NAME , CITY AND STATE OF RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
Andrew Bratz - Sun Prairie, WI	1	40.00			29	16.80	\$56.80
Margaret Geerlings - Indianapolis, IN	1	40.00			22	12.32	\$52.32
Arick Tealey - Durand, WI	1	40.00			49	28.00	\$68.00
Mary Gebert - Mosinee, WI	1	40.00			32	17.92	\$57.92
Connie Tealey - Durand, WI	1	40.00			49	28.00	\$68.00
Colleen Furnish - Hydesville, CA	1	40.00			49	28.00	\$68.00
					TOTAL		\$371.04

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

“Sec. 1924. Verification of bill of costs.”

“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

See also Section 1920 of Title 28, which reads in part as follows:

“A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”

The Federal Rules of Civil Procedure contain the following provisions:**RULE 54(d)(1)**

Costs Other than Attorneys’ Fees.

Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney's fees — should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 14 day's notice. On motion served within the next 7 days, the court may review the clerk's action.

RULE 6

(d) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

RULE 58(e)

Cost or Fee Awards:

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

ADDENDUM TO BILL OF COSTSOther Costs*Witness fees (continued)*

Name, City and State of Residence	Days	Total Cost	Miles	Total Cost	Total Cost Each Witness
David Ehrenfeld – Hydesville, CA	1	\$40.00	49	\$28.00	\$68.00
Burleigh Rapp – Hermantown, MN	1	\$40.00	16	\$8.96	\$48.96
Ed Duckinfield – West Grove, PA	1	\$40.00	86	\$48.16	\$88.16
Sue Duckinfield – West Grove, PA	1	\$40.00	86	\$48.16	\$88.16
Clint Marsh – Chatfield, MN	1	\$40.00	63	\$35.84	\$75.84
James Parker – McMillan, MI	1	\$40.00	105	\$59.36	\$99.36
				Subtotal	\$468.48

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NOTES TO CLERK'S TAXATION OF COSTS

Initially, I reject plaintiff's request that taxation of costs should be stayed pending the outcome of the appeal, finding that judicial efficiency favors immediate resolution.

1. Plaintiffs object to defendant's total requested amount for deposition costs. 28 U.S.C § 1920 (2) provides that costs may be taxed "... for printed or electronically recorded transcripts necessarily obtained for use in the case." Defendant is also entitled to videotape depositions under *Little v. Mitsubishi Motors North America, Inc.* 514 F. 3d 699 (7th Cir. 2008).

Defendant's invoices attached to the Bill of Costs are sufficient to support the deposition costs requested. (*See* dkt. 557).

2. Plaintiffs generally object to all costs requested regarding E-Discovery and Photocopies based on defendant's conduct during discovery plaintiffs object to costs for photocopies because "Invoices Lack Specificity" (dkt. 560, pg. 8). Both of these arguments fail.

As to the E-Discovery, The docket supports the conclusion that plaintiffs were largely responsible for excesses in discovery. Judge Crabb stated in her February 2, 2016 order "...defendant paints a different picture. In its view, it cooperated from the beginning in the production of discovery, but was thwarted by plaintiffs' refusal to narrow their discovery demands. My review of the record supports defendant's view of the disputes." (dkt. 510, pg. 4) Judge Crabb's Order is 1 ½ years after Judge Crocker told plaintiffs that discovery requests "are too broad and they will have to be tightened up." (dkt. 56, pg. 5). No reduction will be made based on defendant's discovery conduct.

As to the photocopies, the defendant has met the requirement that it "provide the best breakdown obtainable from retained records." *Northbrook Excess & Surplus v. Procter & Gamble*, 924 F. 2d 633, 643 (7th Cir. 1991).

Defendant concedes that \$37,022.08 of its requested discovery costs fall outside the parameters of recoverable costs set forth by the court in *Split Pivot, Inc. v. Trek Bicycle Corp.*, 12-cv-639. Because *Split Pivot* represents the current view of the court on the issue, costs are reduced accordingly.